STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 2179 By: Ortega

AS INTRODUCED

An Act relating to aircraft and airports; amending 3 O.S. 2011, Sections 120.1, 120.2, 120.3, 120.7 and 120.8, which relate to the Aircraft Pilot and Passenger Protection Act; specifying standards; modifying definitions; modifying exemption to permit requirement; extending time for permit recording; allowing for amended permits; specifying conditions; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 3 O.S. 2011, Section 120.1, is amended to read as follows:

Section 120.1 A. This act shall be known and may be cited as the "Aircraft Pilot and Passenger Protection Act".

B. It is the intent of this act to:

1. Regulate obstructions to air navigation that have the potential of endangering the lives and property of aircraft pilots and passengers and those that live or work in the vicinity of public-use airports; that may affect existing and future instrument approaches to a public-use airport; and that may reduce the size of areas available for the landing, takeoff and maneuvering of aircraft

thus impairing the utility of a public-use airport and the public investment therein;

2. Regulate the use of land in close proximity to a public-use airport to ensure compatibility with aircraft operations; and

3. Provide specific powers and duties to the Oklahoma Aeronautics Commission in the interest of the health, safety and welfare of the public so that the state may properly fulfill its duty to ensure that land use around a public-use airport is compatible with normal airport operations including the landing and takeoff of aircraft.

C. All heights or surfaces set forth in this act are from the standards set forth in Subpart C of Federal Aviation Regulations (FAR) Part 77.

D. Depending upon the type of survey used, an adjustment will be made <u>in accordance with Federal Aviation Administration standards</u> to the horizontal and vertical measurements of the proposed structure as follows:

Survey Type	Horizontal Adjustment	Survey Type	Vertical Adjustment
1	±20 ft (6 m)	A	+3 ft (1 m)
2	±50 ft (15 m)	B	+10 ft (3 m)
3	±100 ft (30 m)	C	+20 ft (6 m)
4	±250 ft (75 m)	D	+50 ft (15 m)
5	±500 ft (150 m)	E	+125 ft (38 m)

If the survey type (horizontal and vertical) is not certified by a licensed engineer or a licensed surveyor, a horizontal adjustment of plus or minus two hundred fifty (250) feet and a vertical adjustment of fifty (50) feet will be applied to the structure measurements.

E. This act shall neither prevent nor preempt a municipality from having ordinances or regulations governing land use that may affect public-use airports.

SECTION 2. AMENDATORY 3 O.S. 2011, Section 120.2, is amended to read as follows:

Section 120.2 As used in the Aircraft Pilot and Passenger Protection Act:

1. "Airport reference point" is the geometrical center of all usable runways;

2. "Airport elevation" is the highest point of an airport's usable runways measured in feet from mean sea level;

3. "Approach surface" is an imaginary surface shaped like a trapezoid:

a. longitudinally centered on the extended runway centerline at a public-use airport,

b. beginning two hundred (200) feet beyond the end of each runway pavement and at the runway end elevation,

c. having an inner-edge width of one thousand (1,000) feet expanding outward uniformly to a width of sixteen thousand (16,000) feet at the outer edge, and

d. sloping upward for a distance of ten thousand (10,000) feet at a slope of fifty (50) to one (1), with an additional forty thousand (40,000) feet at a slope of forty (40) to one (1);

4. "Commission" means the Oklahoma Aeronautics Commission or a successor agency;

5. "Conical surface" is an imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) to one (1) for a horizontal distance of four thousand (4,000) feet;

6. "FAA" means the Federal Aviation Administration or a successor agency to the Federal Aviation Administration;

7. "Horizontal surface" is an imaginary horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of ten thousand (10,000) feet radii from a point located on the extended runway centerline two hundred (200) feet beyond each end of runway pavement and connecting the adjacent arcs by lines tangent to those arcs;

8. "Incompatible purpose" means the use of a building ~~or~~, structure or area as a residence, educational center (including all

types of primary and secondary schools, preschools, and child-care facilities), ~~places~~ place of worship, place of public assembly, hospital, medical inpatient treatment facility, nursing/convalescent home, retirement home, transportation facility, storage facility, aboveground utility facility or similar use;

9. "Legal representative" means a person who is authorized to legally bind an entity;

10. "Permit" means a permit issued by the Commission under this act;

11. "Person" means an individual, firm, partnership, corporation, association, or body politic and includes a trustee, receiver, assignee, or other similarly authorized representative of any of them;

12. "Primary surface" is a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is one thousand (1,000) feet;

13. "Public-use airport" means a structure or an area of land or water that is designed and set aside for the landing and taking

off of aircraft, is utilized or to be utilized by and in the interest of the public for the landing and taking off of aircraft and is identified by the FAA as a public-use airport. Public-use airport shall include any military airport operated by a branch of the armed services of the United States government. Public-use airport shall not include any privately owned airport for private use as identified by the FAA, or any airport owned by a municipality with a population exceeding five hundred thousand (500,000) according to the most recent Federal Decennial Census;

14. "Runway" means the portion of an airport designated as the area used for the landing or takeoff of aircraft;

15. "Runway protection zone" is a trapezoidal zone centered along the extended runway centerline, beyond each end of the primary surface, two thousand five hundred (2,500) feet long, with an inner width of one thousand (1,000) feet and an outer width of one thousand seven hundred fifty (1,750) feet. The function of the runway protection zone is to enhance the protection of people and property on the ground;

16. "Structure" means any constructed or installed object~~,~~ including, but not limited to, buildings, towers, wind turbines, smokestacks, electronic transmission or receiving towers, and antennae and overhead transmission lines. The term does not include:

a. any aviation navigational aids that are fixed by function, or

b. any construction or installed object on property owned by the federal government; and

17. "Total structure height" means the elevation of the ground above mean sea level at the structure's location, plus the height of the structure above ground level in feet, plus the applicable survey type adjustment provided the survey adjustment is in accordance with Federal Aviation Administration standards.

SECTION 3. AMENDATORY 3 O.S. 2011, Section 120.3, is amended to read as follows:

Section 120.3 A. A person shall obtain a permit from the Commission prior to the construction ~~or~~, installation, or use of any of the following near a public-use airport:

1. Any proposed structure or area for an incompatible purpose in the primary surface or the runway protection zone;

2. Any structure, alteration or addition to a structure within three (3) statute miles from the airport reference point of a public-use airport, that would result in a total structure height in excess of one hundred fifty (150) feet above the established airport elevation; and

3. Any structure, alteration or addition to a structure that would result in a total structure height greater than the

horizontal, conical or approach surfaces, as defined in Section ~~2~~ 120.2 of ~~the Aircraft Pilot and Passenger Protection Act~~ this title.

B. No permit shall be required:

1. For mobile or temporary equipment used to construct or install a new structure or to perform routine maintenance, repairs, or replace parts of an existing structure or for temporary structures that will be in place for less than twenty-four (24) months; or

2. To repair, replace, or alter an existing structure that would not result in a total structure height greater than the horizontal, conical or approach surfaces as defined in Section ~~2~~ 120.2 of this ~~act~~ title, or change the location of an existing structure.

C. Any person required to notify the FAA of any proposed construction or alteration pursuant to Subpart B of Section 77.13 of the Federal Aviation Regulations Part 77, that in response receives an acknowledgement from the FAA that further aeronautical study is required to determine whether the proposed construction or alteration would be a hazard to air navigation, shall, upon requesting further aeronautical study by the FAA, concurrently notify the Commission of the request and shall provide the Commission with true and correct copies of all relevant filings made with the FAA.

Upon receipt of such notification of the filing of a request for further aeronautical study, the Commission shall give timely notice thereof to the Oklahoma Strategic Military Planning Commission, or any successor agency, and to any military airport within Oklahoma potentially affected by the proposed construction or alteration.

The Commission further shall use its best efforts to establish regular and consistent communication with the FAA to encourage sharing of information regarding construction or alteration in a military training route or slow-speed low-altitude training route within the State of Oklahoma with appropriate state agencies and military installations.

SECTION 4. AMENDATORY 3 O.S. 2011, Section 120.7, is amended to read as follows:

Section 120.7 A. If FAA Form 7460-1 is required, then an application for a permit pursuant to Section ~~3~~ 120.3 of ~~the Aircraft Pilot and Passenger Protection Act~~ this title shall be filed at the same time the FAA Form 7460-1 is sent to the FAA, or at any time before that. If FAA Form 7460-1 is not required, then the application shall be filed at least thirty (30) days before the earlier of the following:

1. The date the proposed construction or alteration is to begin; or

2. The date an application for a construction or building permit is to be filed with the municipality.

Upon receiving an application, the Commission shall notify a legal representative of the public-use airport owner affected by the application and solicit comments from the airport owner.

B. In determining whether to issue a permit, the Commission shall consider:

1. The nature of the terrain and height of existing structures;

2. Public and private interests and investments of an airport;

3. The character of flying operations and planned developments of an airport;

4. Whether the construction of the proposed structure would cause an increase in the minimum descent altitude or the decision height at the affected airport;

5. Technological advances;

6. The safety of persons on the ground and in the air;

7. Land use density;

8. Comments from all interested persons; and

9. Findings and determinations of other government agencies.

C. If FAA Form 7460-1 is required, then the Commission shall notify the applicant of its determination within thirty (30) days of the FAA completing its aeronautical study. If the applicant has not been notified by the Commission of its determination within thirty (30) days of the FAA completing its aeronautical study, then the applicant shall notify the Commission that it has not received notice of the Commission's determination. The Commission shall then

have seven (7) working days from the date of the applicant's notice to notify the applicant of its determination. Nothing herein precludes the Commission from making its determination before the FAA completes its aeronautical study.

D. If FAA Form 7460-1 is not required, then the Commission shall notify the applicant of its determination within sixty (60) days of filing the application. If the applicant has not been notified by the Commission of its determination within sixty (60) days of filing the application, then the applicant shall notify the Commission that it has not received notice of the Commission's determination. The Commission shall then have seven (7) working days from the date of the applicant's notice to notify the applicant of its determination.

SECTION 5. AMENDATORY 3 O.S. 2011, Section 120.8, is amended to read as follows:

Section 120.8 A. Once a permit is issued by the Commission, the applicant shall be required to complete the following steps to complete the permit process:

1. The applicant for a permit under Section ~~3~~ 120.3 of ~~the Aircraft Pilot and Passenger Protection Act~~ this title shall record each permit issued by the Commission in the office of the county clerk for the county where the structure is located not later than ~~thirty (30)~~ sixty (60) business days after the Commission issues the permit. If a structure is located in more than one county, the

county that contains the majority of the structure is the county in which the permit must be filed. A permit issued under paragraph 1 of subsection A of Section ~~3~~ 120.3 of this ~~act~~ title shall contain the following statement:

"The permittee acknowledges for itself, its heirs, its successors, and its assigns, that the real estate described in this permit is located within the primary surface or the runway protection zone of a public-use airport, and that the permittee is building a structure upon this real estate with the full knowledge and acceptance that it may be incompatible with normal airport operations including the landing and takeoff of aircraft.";

2. A permit issued in accordance with the provisions of Section ~~3~~ 120.3 of this ~~act~~ title is valid only after the Commission receives a certified copy of the recorded permit with the recording data from the county clerk of the county in which the structure is located; and

3. Every permit granted by the Commission shall specify that obstruction markers, markings, lighting, or other visual or aural identification required to be installed on or in the vicinity of the structure shall conform to federal laws and regulations.

B. Once a permit is valid the permittee may request to amend a permit under these conditions:

1. The amendment is to change the administrative items of the permit including the transfer of ownership rights. There shall be no limit to the number of times a permittee can request an amendment that is administrative in nature; or

2. The amendment is for the purpose of micrositing a structure that has been permitted, but not yet constructed. Micrositing shall allow for a structure to be moved four hundred (400) feet or less in a horizontal direction provided the new location will not impact an airport's instrument or visual approaches. A permittee can request to amend a permit for micrositing up to two times. A third micrositing request on the structure will require the permittee to file a new permit application.

SECTION 6. This act shall become effective November 1, 2017.

56-1-5829 JBH 01/19/17